

AMENDMENT UNDER 37 CFR § 1.111
Serial No. 09/875,154

REMARKS

A total of 31 claims remain in the present application. The foregoing amendments are presented in response to the Office Action mailed August 23, 2005, wherefore reconsideration of this application is requested.

By way of the above-noted amendments, claims 14 and 30 have been amended to depend from claims 4 and 19, respectively, to ensure that each of the claimed elements are supported by proper antecedents.

In preparing the above-noted amendments, careful attention was paid to ensure that no new subject matter has been introduced.

Referring now to the text of the Office Action:

- FIGs. 1-4 stand objected to under 37 C.F.R. § 1.84(o);
- claims 1-13 and 16-29 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over the teaching of United States Patent Application Publication No. 2002/015968 (MacDonald) in view of United States Patent No. 5,436,886 (McGill.); and
- claims 14, 15, 30 and 31 are objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As an initial matter, applicant appreciates the Examiner's indication of allowable subject matter in claims 14, 15, 30 and 31. The Examiner's claim rejections are believed to be traversed by the above-noted claim amendments, and further in view of the following discussion.

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Objections to the Drawings

At paragraph 2 of the Detailed Action, the Examiner has objected to the drawings "because all blocks in figures 1-4 should be labelled with descriptive legends". Applicant respectfully disagrees.

37 C.F.R. § 1.84(o) states that " Suitable descriptive legends may be used subject to approval by the Office, or may be required by the examiner where necessary for understanding of the drawing. " In the present case, Applicant respectfully submits that adding descriptive legends to all blocks, as required by the Examiner, would be severely clutter the drawings, while offering no assistance in understanding the drawings. In that respect, applicant notes that reference numerals are used throughout the drawings to identify each of the illustrated elements, which are fully described in the accompanying description. Adding further descriptive labelling to the drawings, in addition to the existing reference numerals, would therefore appear to add nothing to assist the reader in understanding the drawings. Additionally, it appears unlikely that descriptive labels satisfying USPTO font-size restrictions could be added to "all blocks" of the drawings without rendering the drawings virtually unreadable.

Accordingly, Applicant respectfully believes that the drawings now on file are proper under US patent practice, and therefore has declined to amend the drawings at this time. However, if Applicant has misunderstood the Examiner's objections, then further clarification from the Examiner would be appreciated.

Rejections under 35 U.S.C. § 103(a)

In support of his rejections under 35 U.S.C. § 103(a), the Examiner asserts (in part) that MacDonald teaches "the interface ('input port interface') ... and a toggle adapted to control the set of stage-1 switch elements to selectively map traffic between a middle stage of the switch fabric and a selected one of the plurality of channels ". Applicant respectfully disagrees.

With respect to "the interface operatively coupled to the set of stage-1 switch elements [and] ... adapted to aggregate a plurality of channels of the communications network into the set of stage-1 switch elements", MacDonald does not provide any corresponding elements. In

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that respect, the term "input port interface" referenced by the Examiner does not appear anywhere in the MacDonald reference, and thus is not understood. Since the Examiner has related the redundancy switches 125 and protection switches 142 to the "a toggle adapted to control the set of stage-1 switch elements...", there do not appear to be any other elements described by MacDonald that might relate to the Examiner's "input port interface". All MacDonald describes is a set of input ports for each external stage module. While an input port might be described as an "interface", it does not aggregate a plurality of channels, and so does not satisfy the claim limitation.

With respect to the "toggle adapted to control the set of stage-1 switch elements...", the Examiner has admitted that MacDonald fails to teach the feature that the toggle "control[s] the set of stage-1 switch elements to selectively map traffic between a middle stage of the switch fabric and a selected one of a set of any two of the plurality of channels." In addition, Applicant notes that the redundancy switches 125 and protection switches 142 must necessarily be controlled independently of the protection stage modules, because otherwise there would be not way to guarantee the toggling function in the event of a module failure – which is the whole point of the MacDonald system. As such, to the extent that system of MacDonald has a toggle function at all, it does not satisfy the claim limitation of "...control[ing] the set of stage-1 switch elements...".

Non-Citability of Prior art reference under 35 U.S.C. § 103(c).

Pursuant to 35 U.S.C. § 103(c), United States Patent No. 5,436,886 (McGill.) is non-citable as prior art against the present application, because both the McGill patent and the present invention were commonly owned at the time the present invention was made. In particular:

- United States Patent No. 5,436,886 (McGill.) is owned by Nortel Networks Limited, by virtue of: an assignment executed by the inventor in favour of Bell-Northern Research Ltd. recorded on October 27, 1994 at Reel/Frame 007183/0082; an assignment executed by Bell-Northern Research Ltd. in favour of Northern Telecom Limited recorded on October 27, 1994 at Reel/Frame 007183/0080; a Change of Name recorded on December 23, 1999, at Reel/Frame 010567/0001 by

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which Northern Telecom Limited is changed to Nortel Networks Corporation; and the Change of Name recorded on August 30, 2000 at Reel/Frame 011195/0706 by which Nortel Networks Corporation is changed to Nortel Networks Limited;

- The present application is owned by Nortel Networks Limited, by virtue of: an assignment executed by the inventors in favour of Nortel Networks Limited recorded on June 7, 2001 at Reel/Frame 011889/0576.

In light of the foregoing, it is respectfully submitted that the presently claimed invention is clearly distinguishable over the teaching of the cited references, taken alone or in any combination. Thus it is believed that the present application is in condition for allowance, and early action in that respect is courteously solicited.

If any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this response, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 19-5113.

Respectfully submitted,


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